

REMARKS

In view of the above amendment, applicant believes the pending application is in condition for allowance. Claims 1-18 and 22-24 are now present in this application. Claims 1 and 5 are independent. By this amendment, claims 1, 5, 8, and 22 have been amended. Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citation

Applicant thanks the Examiner for considering the references supplied with the Information Disclosure Statement filed March 17, 2006, and for providing Applicant with an initialed copy of the PTO-1449 or PTO-SB08 form filed therewith.

Objection to the Drawings

The Examiner has objected to the drawings for failing to show every feature of the invention specified in the claims. The Examiner alleges that the drawings are deficient for failing to show the claimed method steps set forth in independent claim 1.

Applicant respectfully submits that all structural features of the claimed invention are shown, for example, in Figs. 1-4. Rule 83 has been interpreted as not requiring that method steps be shown in drawings. In particular, M.P.E.P. § 608.02(d), which explains the particulars of 37 C.F.R. § 1.83(a)-(c), states that "[a]ny structural detail that is of sufficient importance to be described should be shown in the drawing." (*Ex parte Good*, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911) (Emphasis added)).

Furthermore, Applicant respectfully submit that the method is sufficiently described in the specification at page 14, line 22 to page 16, line 10, that one of ordinary skill in the art reviewing the application would understand with reference to Fig. 3, how the device moves to clamp the container.

Accordingly, reconsideration and withdrawal of this objection, and approval of the drawings are respectfully requested.

Specification Objection

The Examiner has objected to the specification because of an informality. In order to overcome this objection, Applicant has amended the specification in order to correct the deficiency pointed out by the Examiner. Reconsideration and withdrawal of this objection are respectfully requested.

Claim Amendments

Applicant has amended the claims in order to correct minor typographical errors, and to place the claims in better form. The claim amendments are not being made in response to any statutory requirement for patentability, and have not been narrowed in scope. Instead, the claims have been amended merely to recite the subject matter therein more clearly.

Rejections under 35 U.S.C. §103

Claims 1, 2, 4-7, 9, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gautier in view of Shaw. Further, claims 3 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gautier and Shaw, in further view of Powell. These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

Applicant respectfully submits that independent claim 1 recites a combination of steps in a method of gas filling and sealing of a duct intended to be filled with gas and positioned in a container of a collapsible type, said duct being defined by two opposite side walls which are joined along a connecting portion, and comprising an inlet arranged in one of the side walls, the method including "clamping a part of the container, which part comprises said inlet, between an abutment and a gas module which is axially movable towards the abutment, in such a manner that one of the two side walls included in the duct is allowed, in response to a gas flow supplied

from the gas module and entering the duct through said inlet, to bulge to form a free passage into the duct for filling the same with gas,” and “after completion of the gas filling, sealing the duct.”

Independent claim 5 recites a combination of features in a device for gas filling and sealing of a duct intended to be filled with gas and positioned in a container of a collapsible type, said duct being defined by two opposite side walls, which are joined along a common connecting portion, and comprising an inlet arranged in one of the side walls, the device including “an abutment,” and “a gas module which is axially applicable to the abutment for abutment against a part of the container and the inlet arranged therein, the gas module being arranged to fill the duct with gas through the inlet and to seal the duct after completion of the gas filling.”

Applicant respectfully submits that these combinations of steps/elements as set forth in independent claims 1 and 5, respectively, are not disclosed or made obvious by the prior art of record, including Gautier and Shaw.

The Examiner relies on Gautier as teaching of a collapsible container A having a duct B, the duct B being defined by two opposite side walls joined along a connection portion 8 and comprising an inlet.

Applicant respectfully submits that the inlet is not arranged in one of the side walls, rather the inlet is arranged between the two side walls. *See* col. 5, lines 29-33 describing that the welded joints 8, 3a, 3b are formed simultaneously and that the pocket B remains open at the upper adjacent edges of the strip. (Emphasis added).

When it comes to filling the pocket B with gas, Gautier disclose a device and a method wherein a small pipe 20 for injecting compressed air is moved down into the pocket B of the container. The inlet of the pocket B is temporarily closed by means of jaws 19A and 19B. Thereafter the air is supplied to the pocket B for filling the pocket B. The small pipe 20 is then extracted from the pocket B by an upward movement. The upper edges of the walls 2a and 2b of the pocket B are the immediately welded just below the jaws 19A and 19b. *See* col. 6, lines 2-22. The device and method for filling the duct with gas disclosed by Gautier is not at all similar to the device and method of the present invention.

As stated in present claim 1, a part of the container, which part comprises said inlet arranged in one of the side walls of the duct, is clamped (or abutted as set forth claim 5) between

an abutment and a gas module which is axially movable towards the abutment. The clamping is preformed in such a manner that one of the two side walls included in the duct is allowed, in response to a gas flow supplied from the gas module and entering the duct through said inlet, to bulge to form a free passage into the duct for filling the same with gas. After completion of the gas filling, the duct is sealed.

Accordingly, Gautier does not disclose an abutment and a gas module being axially movable towards the abutment for clamping a part of the container, which part comprises said inlet and which clamping is preformed in such a manner that one of the two side walls included in the duct is allowed, in response to a gas flow supplied from the gas module and entering the duct through said inlet, to bulge to form a free passage into the duct for filling the same with gas.

In order to address the above deficiency with regards Gautier, the Examiner states that Shaw teaches about an abutment 17 and a gas module 23 being axially movable towards the abutment 17, and the abutment 17 allowing one of the two side walls to bulge to form a free passage into the duct for filling the same with gas. Applicant respectfully disagrees with this interpretation of Shaw.

Shaw discloses a filling machine and a method for filling a container with a product. Thus, Shaw does not disclose how to fill a duct with gas. Further, the pouch disclosed by Shaw is completely closed prior to the filling, thus the pouch does not have any inlet prior to the filling. Even further, the pouch disclosed by Shaw is filled by a portion of gas prior to the filling, said gas being emptied from the contained upon filling. Thus, no gas flow enters the pouch; instead the gas is leaving the pouch. Further, the pouch in Shaw is not clamped between an abutment and a gas module. Instead a needle is inserted through one of the walls of the pouch, thus puncturing the wall. The needle and the abutment do not clamp the pouch. Further, Shaw does not disclose a gas module. The needle like filler member of Shaw can not be seen as a gas module.

More precisely, as described at col. 3, line 55 to col. 4, line 39 of Shaw, the filling disclosed by Shaw is not done via an inlet. The pouch in Shaw does not have an inlet; the pouch is completely closed prior to the filling. Prior to the filling, gas inside the pouch is pressed to the top part of the pouch in order to inflate the top part forming a “gas pocket”, as shown in Fig. 2. Thus, the pouch is compressed and the “gas pocket” is formed in order to separate the walls of

the pouch. By doing so it is made possible to insert, through one of the walls, a needle like filler member. Thus, one of the walls is punctured in order to fill the pouch. The puncture is located in the "gas pocket". During the filling, the gas originally being inside the pouch is emptied from the pouch and replaced by a product. *See* col. 4, lines 27-31.

To summarize, all the distinctive features of the present independent claims 1 and 5 are not disclosed by the combination of Gautier and Shaw.

Gautier does not disclose an inlet arranged in one of the side walls. Further, Gautier does not disclose an abutment and a gas module being axially movable towards the abutment for clamping a part of the container, which part comprises said inlet and which clamping is preformed in such a manner that one of the two side walls included in the duct is allowed, in response to a gas flow supplied from the gas module and entering the duct through said inlet, to bulge to form a free passage into the duct for filling the same with gas.

Shaw does not teach inlet at all, rather the pouch in Shaw is completely closed prior to the filling. Further, Shaw does not disclose how to fill a duct with gas. No gas flow enters the pouch; instead the gas is leaving the pouch. Finally, the pouch in Shaw is not clamped between an abutment and a gas module. In fact, no gas module is disclosed by Shaw.

For all of the foregoing reasons, the hypothetical combination of Gautier and Shaw fail to render independent claims 1 and 5 obvious.

None of the other references were cited to overcome the above-noted deficiencies. Accordingly, Applicant respectfully submits that the combinations of steps/elements as set forth in independent claims 1 and 5, respectively, are not disclosed or made obvious by the prior art of record, including Gautier and Shaw, for the reasons explained above. Therefore, reconsideration and withdrawal of this rejection under § 103 are respectfully requested.

With regard to dependent claims 2-7, 9, and 16-18, Applicant submits that these claims depend, either directly or indirectly, from independent claim 1 or 5, which are allowable for the reasons set forth above, and therefore these are allowable based on their dependence from claim 1 or 5, as well as for their additionally recited subject matter. Reconsideration and allowance thereof are respectfully requested.

Request for Reference

Regarding claims 17 and 18, the Examiner's rejection states that it would have been obvious to one having ordinary skill in the art to utilize low conductivity material and cooling means in conjunction with a sealing device for the purpose of preventing damage to the package itself. Applicant notes that Official Notice is only appropriate in asserting facts, but is not appropriate for drawing legal conclusions. Therefore, Applicant respectfully requests that the Examiner supply a reference showing the features set forth in dependent claims 17 and 18.

Allowable Subject Matter

The Examiner is silent to dependent claims 8, 10-15, and 22-24. Therefore, Applicant assumes that these claims contain allowable subject matter. Clarification is requested in the next paper from the U.S. Patent Office.

Additional Cited References

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Chad D. Wells, Registration No. 50,875, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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